

**MINUTES
IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK
FUND PROGRAM**

August 24, 2006

**ANNUAL STRATEGIC PLANNING SESSION
IOWA 80 TRUCK STOP
I-80, EXIT 284, WALCOTT, IOWA**

Susan Voss, Chairperson, called the Iowa UST Board meeting to order at 9:43 A.M. A quorum was present. Roll call was taken with the following Board members present:

Susan Voss
Cathy Rottinghaus
Jim Holcomb
Liz Christiansen (for Jeffrey Vonk)
Delia Meier
Doug Beech
Jeff Robinson
Stephen Larson (for Mike Fitzgerald)

Also present were:

Angela Burke-Boston, Iowa Insurance Division
David Steward, Attorney General's Office
Scott Scheidel, Administrator
James Gastineau, Program Administrator's Office
Lacey Skalicky, Program Administrator's Office

STRATEGIC PLANNING SESSION

Ms. Voss reviewed the agenda for the day, which included a morning session of Strategic Planning for the current fiscal year (2007) and a regular Board meeting following a break for lunch.

I. Evaluation of Past Program Goals and Program Status

A. Current Program Status

Mr. Scheidel reviewed with the Board the updated annual narrative that outlines the current status of the Program as well as giving a historical perspective on the origin of the Program and changes that have occurred over the life of the Program.

Mr. Scheidel outlined the legislative intent of House File 447, which was codified under Iowa Code 455G. He noted the following topics:

- “Adequate and reliable financial assurance for the costs of cleanup on pre-existing releases” has been addressed by the Remedial Program.
- The Insurance Program was designed to “create financial responsibility assurance mechanism (insurance) to pay for future releases.” This program was transferred to the private sector in 2000.
- The “Fund was designed to be an interim measure” as suggested by the sunset date scheduled for June 30, 2016.
- The Board has cooperated with the Department of Natural Resources to address leaking underground storage tank (LUST) sites to “minimize societal costs and environmental damage.”
- Board assistance has helped to “maintain Iowa’s rural petroleum distribution network” by providing cleanup for pre-existing conditions of petroleum contamination, as well as, enabling an ongoing financial responsibility mechanism for UST sites.

In reviewing this narrative, funding and operational issues were covered. Mr. Scheidel stated that the review was to both give a broad perspective status of the Program and to help keep the focus of the Program over its lifetime as a framework before discussing the more immediate goals.

Mr. Scheidel discussed the Remedial Program, the Insurance Program and the Loan Guarantee Programs. The funding for the Iowa UST Board’s goals was provided by 77% of tank management fees, which are collected by the Department of Natural Resources (DNR), as well as, \$17M from the motor vehicle use tax, which is collected by the Department of Revenue. To get the Iowa UST Programs started, the Board issued bonds, which have been re-funded and managed to date with an annual debt service of approximately \$9.6M.

Mr. Scheidel noted that the currently used funds for the Iowa UST Program include the Revenue Fund, which receives funds from funding sources and pays out debt service; Unassigned Revenue Fund, which is used to pay the Board’s monthly and regular invoices for services. Money from this fund is also used to replenish the Remedial Fund when its balance is depleted. The Remedial Fund is used to pay remedial and retroactive claims. The Innocent Landowner Fund is used to pay innocent landowner and global settlement claims. The

Aboveground Storage Tank (AST) Fund is used to pay AST claims. The Loan Guarantee Fund is reserved for the payment on any loan defaults. The Marketability Fund was most recently used to finance the AST Fund, created in FY2005 for the payment of AST claims. The Bond Funds show the distribution of debt service payments between bond series (i.e. 1997A Series bonds and 2004A Series bonds). The Capital Reserve Fund holds a required capital reserve to maintain the bonds.

Mr. Scheidel discussed some operational issues including prior contract approval for services, 28E agreements, community remediation projects, cost recovery efforts, innovative technologies, risk based corrective action (RBCA), rural distribution network, innocent landowners, privatization of the Insurance Program, technical training, owner/operator outreach, rule review, and aboveground storage tanks.

Ms. Voss inquired whether or not other states' programs were as far along or had been around as long as Iowa's program. Mr. Scheidel explained that all participating states began their programs approximately around the same time in response to federal regulations. He referred the Board members to a later section (IV) of the Strategic Planning Session, which provides comparisons between the participating states' programs. He explained that Iowa was one of few states that had provided for an end to their program, by limiting claims by their limited dates of the release. He stated that other state programs had varying success with the insurance portion of their programs, due to the fact that ongoing releases are continually added to their claims base. Therefore by comparison, Mr. Scheidel felt Iowa's program was ahead of the curve. Ms. Rottinghaus inquired whether other states used the RBCA model. Mr. Scheidel said they did use a RBCA model in other states, however each state's Department used different versions of a RBCA model.

Mr. Scheidel reviewed with the Board the monthly activity report for the month ending June 30, 2006. He noted the trend continued to show a reduction in the number of open claims overall including Global Settlement claims that reimburse claimants a portion or their entire copayment requirement. At the end of the fiscal year 2005, there were 101 retroactive claims. That number was reduced to 86 open retroactive claims at the end of fiscal year 2006. Additionally, the remedial claims were reduced from 1,273 to 1,057 open claims. He noted the number of innocent landowner (ILO) open claims decreased from 308 to 274, and global settlement claims decreased from 360 to 323. Most importantly, Mr. Scheidel stated that AST claims were in a state of runoff with 7 claims remaining on June 30, 2006.

Mr. Scheidel reviewed with the Board the status of the UST guaranteed loans. He reminded the Board that no new loan applications were being accepted. The existing portfolio was in runoff. As of June 30, 2006, the Board had 3 outstanding loan guarantees totaling \$321,518.00. All three loans were scheduled to mature by December 31, 2014.

Mr. Gastineau presented a memo to the Board regarding the status of each of the Community Remediation Projects (CRP) and Innovative Technology (REMIT) Projects. In addition, Mr. Gastineau presented a highlights memo to touch on projects that had been the focus of significant changes over the past year. He included a spreadsheet with the memo that showed the expenditures of each project. Highlights from the last year included the termination of projects in Adel, Ida Grove, and Scranton due to no action required classifications. Other projects in Dubuque, Davenport, and Popejoy were terminated due to the newly-established eligibility of UST sites involved. Mr. Gastineau explained that the status of all projects were

outlined in the comprehensive memo, and he would answer any questions regarding specific projects.

Mr. Scheidel next directed the Board's attention to a spreadsheet and series of graphs containing fiscal year end data from 1990 to 2006. Data included in the spreadsheet and in the graphs were total numbers of open claims by year and total amount of outstanding reserves by year, as well as totals for individual claim types (remedial and ILO). Additionally, the graphs provided a comparison between the outstanding reserves of each claim type and its corresponding fund balance. Mr. Scheidel noted that the past twelve months saw the Administrator's Office reviewing claim files that had remained inactive for long periods of time. A large number of those files revealed no action required sites with claims remaining open awaiting final billing for the closure of monitoring wells at the sites. Also, several claims that were opened and pending claim eligibility documentation were closed due to inactivity. After identifying several such claims and closing them, the number and reserve balances for all claim types decreased significantly from last year. Upon receipt of closure invoices or qualifying documentation of eligibility, any of those claims would be reopened, paid, and closed again at anytime.

Ms. Voss inquired whether or not the legislators were given these graphs on a periodic basis. Mr. Scheidel stated that he reported a summary of the status of claims to legislators without providing them with this particular series of graphs.

Mr. Robinson drew the Board's attention to the decrease in the remaining reserves of all claim types from fiscal year 2005 to 2006, which exceeded \$30M, which was a large amount. Mr. Scheidel noted the difference was a representation of the claims adjusters evaluating all claims – open and closed – and subsequently closing 276 claims in the past year. Ms. Voss inquired if reserves would continue to trend down. Mr. Scheidel believed that they would, however the reserves may not trend down quickly due to the continued practice of corrective action meetings, which promotes continued work at sites and often results in an increase in a site's total reserve as additional remediation work is completed.

Mr. Scheidel explained that he had created a new graph showing the trends of active LUST sites by DNR classifications including high risk, low risk or not classified. He noted that the trend of the low risk sites approached zero much more slowly, as represented by an almost flat line with little slope. The trend of the high risk sites met zero in approximately 2011, however those represented old releases only. Therefore the total LUST sites, as well as the Fund claims trends were more driven by the low risk trend than by the high risk trend – as reflected within the graph. Tim Hall of the Department of Natural Resources said his opinion was that the graph reflects a practice that high risk sites would be addressed prior to low risk sites.

Mr. Scheidel referenced the graphs themselves that showed trends of claim reserves for each claim type, as well as, those same claim reserves compared to their respective fund balances. As shown in the graphs, the ILO Fund had sufficient monies to cover expected ILO claim costs, and the Remedial Fund did not. Mr. Beech inquired about the requirements of an ILO claim. Mr. Scheidel stated the foremost requirement of an ILO claim was that a release of contamination must have occurred prior to October 26, 1990. ILO claimants must provide documented evidence that the release occurred prior to that date of regulation. Additionally, pre-regulation claims were included under ILO, due to the fact that pre-regulation UST's were either out of use since 1974 or permanently closed by 1985. Mr. Scheidel explained that

originally, eligible releases had to be reported to DNR by October 26, 1990, however the language had evolved into an acceptance of a release that had occurred by October 26, 1990. As the reporting deadlines came and went, Mr. Scheidel stated the ILO program was modified to accept claims for UST sites which had documented evidence of a pre-October 26, 1990 release.

Mr. Scheidel referenced a graph of Open Claims and Total Active LUST Sites that represented a continued trend downward of both open claims and active LUST sites, and he pointed out that not all LUST sites had eligible claims with the Iowa UST Fund. The following graph showed the Environmental Protection Charge (EPC) collection totals, of which the UST Fund receives \$17M per year by statute. He noted that the Board pays the Department of Revenue to collect the tax, and the amount of EPC collected over and above the \$17M remained in the Road Use Fund. He stated the idea to divert those excess taxes collected to the DNR for operation of the UST Section had been floated in the Capitol in recent years; however the idea was always dismissed early in session.

Next, Mr. Scheidel reviewed with the Board a pie chart regarding the DNR Site Status Breakdown showing 73% of DNR LUST sites were classified no action required, as well as, 16% high risk, 8% low risk and 3% still needing a RBCA evaluation. The LUST classifications were further graphed to show the trend in number of sites over time, the most static number being sites with low risk classifications.

Mr. Scheidel discussed the 2006 Fiscal Year Iowa UST Fund financials as of June 30, 2006 with the Board. He compared the totals to the expected budget for fiscal year 2006. The total fund balance was over \$62 million. Mr. Scheidel noted some discrepancies due to the timing of the debt service payments made at the end of the year, rather than at the beginning of FY07. Also, remedial claims paid did not reach projected goals for remedial claim payments for FY06. He also stated that the State Auditor's Office had suggested the Board consider amending the Iowa UST budget throughout the year, with Board approval of each amendment, as unexpected expenditures or refunds are incurred. After a brief discussion, the Board members reached a consensus that they did not want to amend the budget throughout the year, but rather report on discrepancies upon fiscal year review, as in the past.

Next, Mr. Scheidel presented and discussed a less complex model for Projected Cash Flows Available for Corrective Actions Costs than was used in previous years. The working document presented an income statement and balance sheet for the Fund, and showed the expected revenues, as well as, a flat amount of projected expenditures for each claim type for each year through the sunset of the Program in June 2016. He combined the Unassigned Revenue funds with the Remedial funds to address future remedial claim payments, and he kept the other claim types within their funds for projection, rather than lumping all funds and claim payments together. The projection showed that the combined Unassigned Revenue plus Remedial funds could run out first by 2012, at which time the Board would have to consider options including, diverting funds from the ILO Fund or pursuing repayment for funds diverted away from the Fund in the past, etc. He pointed out that the total of all UST funds did not run out by 2016 according to the projected model. Mr. Scheidel explained that rather than projecting that the Fund pay claims in the very **short** term based on remedial reserves as they are known at present, he wanted to project something more realistic based on the Program's historical claim payments.

Mr. Robinson compared the total expenditures predicted in the model to the current outstanding reserves referenced in previous graphs and tables. In the projection model based on flat expenditures, Mr. Robinson noted that claim payments would total \$161M. In the claim reserves represented in previous tables, the current open claims had a remaining reserve of \$81M. He felt that the current claims, as well as, new claims added in the future would have to undergo a significant boosting of reserves to reach \$161M over the life of the Program, especially considering that remaining reserves had decreased by \$30M over the past year. Additionally, Mr. Robinson felt the Capital Reserve Fund (balance approximately \$6.2M) should be included in the beginning balance of all UST Funds, and it was not listed in the projection model. Therefore, Mr. Robinson stated he didn't expect the ultimate funding of future claim payments to be as dire as projected.

Mr. Scheidel agreed, however he stated that because reserves were ever-changing, it was possible that reserves could double by 2016, as claims are paid and new work is identified and new claims are assessed. He stated that legislators had not historically considered reserves, as much as whether or not a program could meet its current year's expenses. He didn't want to send the best-case scenario message that would encourage an increase in the diversion of funds; as such a diversion may jeopardize the Fund balances in the future, even if it were possible that there may be money left over at the end of the program. He also explained that the Program could spend more money per year, if the claimants' cooperation were not required to move the work along, however claimant cooperation was both required and integral; therefore the claimants more or less determine the pace of the reimbursement.

After a brief discussion regarding the projection document, Mr. Scheidel stated that he'd revised the document to show a more realistic trend in expenses. He explained that the projections at past annual meetings showed maximum payouts on claims based on aggressive assumptions, and over time he had learned that regardless of the remaining reserve amount, the annual payouts were fairly static. The Fund could only pay claims as quickly as the work was completed; and regardless of what work was left to be done, claim payments had not increased significantly from year to year. The history of claim payments had determined the projected payments in the current document for the remaining years of the Program. The document showed projected remedial claim payments of \$13,060,000 per year and innocent landowner claim payments of \$3,000,000 per year.

Mr. Beech wondered how the Fund would continue to pay \$3M per year on innocent landowner claims into the future due to the limited nature of those claims. He questioned how many unknown, pre-October 26, 1990 releases are still out there. Mr. Scheidel conjectured that the innocent landowner fund may be a future source for community remediation projects or other sites that do not qualify for eligible claims, however in the interest of public health the DNR may request assistance from the Board to remediate such sites. He stated that GAB received approximately 2 to 3 new innocent landowner claims per month. Neil Searcy of GAB Robins stated that the discovery of old gas stations was often initiated by groundwater professional firms soliciting UST site owners and by property transfers, so he felt the current number of new claims will remain static. Mr. Scheidel agreed stating he was confident that there were many unknown UST sites in Iowa awaiting discovery, however the passage of time creates a bigger obstacle for claimants to prove that UST's were properly closed prior to October 26, 1990.

Elaine Douskey of the DNR noted the remedial claim payments projected stayed at \$13,060,000 through the sunset of the Program even though the number of remedial claims will decrease from year to year. Mr. Scheidel stated he would change the projection document if expenditures trend down, however historically that had yet to happen. Claims continued to close, yet expenditures had remained the same. Mr. Scheidel explained to the Board that they could manipulate the projection document to consider claim expenditures in a downward trend based on the closure of LUST sites to observe a different outcome than the one presented.

B. Status of 28E Agreements

Mr. Scheidel reviewed with the Board the 28E Agreements the Board has entered into since the inception of the program, noting that 8 of the 19 agreements had expenditures or receipts in fiscal year 2006. One agreement between the Board and the DNR involved a large sum paid to the DNR from a UST Fund eligible claimant for the management of two sites. The DNR issued payment to the Board for the remaining co-payment requirement for each site's claim, as well as a management fee of \$20,000 for the two project sites over the next 10 years. Also listed for fiscal year 2007 was the funding agreement (#20) for the UST Section of the DNR.

C. Attorney General's Report

Dave Steward reported to the Board that he had no pending matters of litigation for discussion. He stated that his work of late for the Fund consisted of drafting 28E agreements, negotiating on individual sites and drafting settlement agreements for sites. In addition, he had performed legal research on the Board's behalf and he had worked on administrative order referrals from the DNR and lawsuits with regard to UST's for the DNR and for the Board.

*The Board took a break for lunch at 11:33 A.M.
The Board reconvened at 12:10 P.M.*

D. Prior Year's Goals

a. Remedial Program -- "Getting Sites to Closure"

Mr. Scheidel reviewed with the Board the goal set in July of 2005 to continue to close UST sites. The impact of corrective action meetings implemented in 2004 had resulted in a net reduction of 276 in open claims. The DNR had reported a net reduction of 157 in open LUST sites and open high risk sites were reduced by 112.

b. Transfer of Installer/Inspector/Tester Licensing Program

Mr. Scheidel reviewed the 28E agreement with the DNR for UST Section funding for fiscal year 2006, which included the transfer of the Installer/Inspector/Tester licensing program to the DNR for the maintenance of their certifications. Mr. Scheidel explained that the Board's interest in the certification of UST installers, inspectors, and testers was discontinued when the Board transferred the Insurance Program to Petroleum Marketers Mutual Insurance Company (PMMIC) in November of 2000. Although the transfer of the licensing program was a goal for 2005 and 2006, it was not achieved within that time and has been included in the fiscal year 2007 funding 28E agreement with DNR and is included on the list of goals for 2007. He

expected the DNR to take over the licensing program by the end of fiscal year 2007 to coincide with the regulations associated with the federal Energy Act.

c. Complete AST Reimbursements and Close Out AST Fund

Mr. Scheidel stated to the Board that only 7 AST claims remained open. The AST program was scheduled to end on February 18, 2005, however the 2005 session of the legislature passed legislation to extend the work completed deadline to December 31, 2005, which pushed the program into fiscal year 2006. Additionally, claim payments for the AST Program could not be made after December 31, 2006. Mr. Scheidel expected the total expenditures for the AST program to total approximately \$12M since inception in April 2004.

d. Maintain Short and Long Term Solvency

Mr. Scheidel informed the Board that there were no recommended changes to the statutes. He said the Board might consider two questions with regard to solvency, 1) will the Fund remain solvent by 2016? And 2) will the Fund maintain solvency as it is needed throughout the program? Mr. Scheidel explained that the business process improvement meetings that have taken place at the DNR would allow for possible prioritization of sites by providing more detail to allow for highest risk sites to move forward first.

e. Legislative Initiatives

Mr. Scheidel stated that the Board didn't go into the 2006 session with any named objective; however the UST Fund was involved with legislative discussions regarding ethanol incentives. The involvement of the Fund boiled down to money to finance ethanol initiatives, therefore the UST Fund would have \$3.5M diverted to the Department of Economic Development (DED) in each of fiscal years 2007 and 2008. Ms. Voss inquired about the UST Fund Board's advisory role to the DED. Mr. Scheidel explained that Ms. Voss, Ms. Christiansen and Mr. Beech had volunteered to make themselves available to the DED's Renewable Fuels Infrastructure Board when requested to provide oversight.

II. DNR Report on UST Issues

Elaine Douskey of the DNR summarized the Department's activities over the past fiscal year. She stated the UST Section had performed 1,281 inspections in FY06 and had found 747 violations, the majority of which involved release detection of UST's. However, she explained that the compliance rate was 71%. She stated that 613 corrective action meetings had been held over the past two years resulting in 316 signed memoranda of understanding. Ms. Douskey stated that these meetings represented 421 high risk sites, and of those the DNR had received 64 reclassification requests, 106 remediation systems had been proposed, 105 sites had more immediate action and/or receptor removal proposals submitted, and 98 sites would move into Tier III.

Ms. Douskey relayed that the four temporary full-time employee report reviewers funded by the UST Fund had reviewed 387 reports, and the DNR appreciated their efforts. Also, she stated the DNR had closed 144 LUST sites over the past Federal fiscal year, which was due to end on September 30, 2006, explaining their United States Environmental Protection Agency (USEPA) goal for the year was 150.

Regarding the issues for the coming fiscal year, Ms. Douskey addressed the third party inspection program and the challenges associated with it, including the needed database program, IT issues, as well as, the request for proposal (RFP) process to obtain these items. She stated the DNR would need assistance to contract for these services, and they were currently working on applications for certified inspectors and a temporary certification process requiring evidence of qualifications, a certification fee, and a USEPA on-line training and exam. They were also working on an inspection manual and the inspection form.

Additionally, Ms. Douskey explained that the DNR would begin a newsletter, which would be available on their website to address new federal regulations, as well as, information and instruction with regard to UST sites. She stated they had begun to gather information regarding the UST Licensing Program for installers, testers, liners and inspectors to facilitate the transfer from the Fund Administrator's Office to the UST Section of the DNR.

Also Ms. Douskey expressed her enthusiasm for the business process improvement ideas identified to allow the DNR's work processes to flow more efficiently. She referenced prioritization of sites, increased communication and education for groundwater professionals (GWP's), and a potential recalibration of the risk based corrective action (RBCA) Tier II Model.

She reiterated that new regulations would have to be drafted and enforced due to the federal Energy Act, and they would await USEPA guidelines before drafting some of the rules. She stated the Iowa DNR had already employed several practices that would be required as a result of the Energy Act.

Tom Norris of Petroleum Marketers Management Insurance Company (PMMIC) restated that the DNR had 71% compliance with their site inspections, and he inquired how that compared with the sort data. She said they were floating around 70%.

Mr. Scheidel asked about a timetable for the third party inspection database development. Ms. Douskey stated they expected to begin using the database by October, however she didn't know if it would be finalized and fully functional by that time. She explained that a RFP was in development presently to seek a contractor to develop the database, because their plan A had not worked out. Mr. Scheidel asked if the database development would affect the inspection requirement for the regulated community. Ms. Douskey stated that she didn't believe so.

Tim Hall of the DNR summarized Ms. Douskey's statements saying that he was happy with the DNR's progress after their tumultuous year including multiple changes and supervisor turnover. He felt the DNR was in a good place now with Ms. Douskey as supervisor of the UST/LUST Section, and he was looking forward to a better, more productive 2007.

III. Program Goals—Fiscal Year 2007

Mr. Scheidel noted that in the Board packets was an outline with a number of issues that the Board should consider for fiscal year 2007. These issues were as follows:

A. Issues from Last Year

B. Remedial Program—Getting Sites to Closure

Mr. Scheidel proposed that the Board develop goals for fiscal year 2007 through discussion. He offered the Board to consider setting number or percentage goals for the closure of claims, as well as, setting an activity goal, process improvement goals, RBCA changes, Loss Portfolio Transfers, or risk transfer mechanisms.

Mr. Scheidel noted that the Fund had closed a net of 276 claims over the last fiscal year due largely to file review of inactive claims. He stated that any new numerical goal would have to be supported by the process improvements at the DNR. He referred to low risk sites where contaminant levels remained steady and low but never reached their target levels. He supposed that subjective decisions to classify such sites to no action required would help the Fund meet their goal of closing more claims. Mr. Hall of DNR stated that the DNR staff used RBCA rules to classify sites. Mr. Scheidel explained to the Board that the DNR was held to rules that they had the power to change. Mr. Hall agreed that the RBCA model should be reviewed based on historical relevance. Mr. Beech asked how the DNR would fund an overhaul of the RBCA software. Mr. Scheidel said that both the Fund and PMMIC had offered to finance a revision of the RBCA software, as it would benefit both the Fund and PMMIC greatly to base corrective action decisions on more realistic plumes.

Mr. Scheidel expected that development of a timeline to schedule the decisions and revisions of the RBCA model should be set by September, so that implementation of the joint decisions could begin or be set by January. Mr. Hall agreed that meetings should begin in September. Ms. Douskey questioned whether the recalibration of the RBCA model would affect as many low risk sites as they might expect. In her opinion, she stated that it may not.

Mr. Scheidel suggested the Board consider a goal of either 150 closed claims to mirror the current USEPA goal of LUST sites closed by the DNR, or the Board might consider a goal of 10% of all open claims to be closed plus an additional 25% based on the DNR goal set by USEPA for the following year. He reminded the Board that the number of closed claims in the past year (276) was abnormally high due to administrative closures. Then Mr. Scheidel suggested an activity goal to focus on moving high risk sites to allow for the potential closure of those high risk sites in 4-5 years down the road. Therefore more aggressive closure goals could be made on those sites in 4-5 years. Mr. Scheidel offered that the Board could establish a goal of a certain number of memoranda of agreement, which had averaged 150 per year for the last 2 years.

Mr. Scheidel asked the Board if there was a risk transfer mechanism goal they would like to address. He stated the goal would have to be achieved jointly with the DNR. Tim Hall said he would welcome meetings to discuss this option. Jeff Hove from Petroleum Marketers and Convenience Stores of Iowa (PMCI) discussed the concerns that his organization had with some of the details of the risk transfer mechanism. Mr. Scheidel told the Board that his set goal for this issue would be a joint report from the Administrator's Office and the DNR to be presented in December explaining how they would like such a mechanism to work for their claimants/site owners.

C. Transfer of Installer/Inspector/Tester Licensing Program

As referenced in earlier discussion, the transfer of the Licensing Program would be completed by the end of fiscal year 2007.

D. Complete AST Reimbursements and Close Out AST Fund

As referenced in earlier discussion, the remaining AST reimbursement claims would be paid and closed by December 31, 2006.

E. Maintain Short and Long Term Solvency

The previous discussion regarding business process improvements at the DNR and a recalibration of the RBCA model software provided a positive step toward long term solvency for the Board.

F. Comparison of Iowa UST Program with Other States' Programs

Mr. Scheidel noted that a general comparison to other state programs was included in the Board packets as well as the entire state fund survey from the State Administrator's Conference in June.

G. Legislative Initiatives

IV. UST State Fund Administrators' Conference

The Board discussed other states' programs in comparison with Iowa's UST Program. Mr. Scheidel pointed out that the major difference between Iowa and other states' programs was that most other states provided ongoing coverage for new releases rather than holding their claimants to provide a financial responsibility mechanism outside of their state programs, which are funded by tax dollars.

V. Summary

The Strategic Planning Session ended at 1:11 P.M., and after a break the Board moved into general Board business at 1:23 P.M.

APPROVAL OF PRIOR BOARD MINUTES

The minutes from the June 22, 2006 meeting were reviewed and Ms. Christiansen made a motion to approve the minutes, Mr. Holcomb seconded, and by a vote of 6-0 the minutes were approved.

CLOSED SESSION

Ms. Voss noted there were no matters dealing with litigation for discussion in closed session pursuant to Iowa Code Chapter 21.

PUBLIC COMMENT

Jeff Hove from PMCI commended Elaine Douskey in her role as supervisor of the UST/LUST Section and the resulting progress at the DNR.

BOARD ISSUES

A. Fiscal 2007 Budget

Mr. Scheidel directed the Board to the Statement of Fund Balances for the FY07 Budget. Mr. Scheidel reviewed the projected revenues and expenditures in the fiscal year 2007 budget with the Board. The Board discussed the Auditor's Office suggestion that the budget be amended throughout the year. The Board decided they didn't see the need to amend the budget, but rather they would continue to track and document known significant changes to the budget as they happened and upon review at the end of the year.

After some discussion between the Board members, Mr. Beech made a motion to approve the fiscal year 2007 budget as presented, and Mr. Holcomb seconded the motion. Approved 6-0.

B. Fiscal Year 2007 Reimbursement Agreement with Attorney General's Office

Mr. Scheidel presented to the Board the proposed reimbursement agreement for Fiscal Year 2007 with the Attorney General's Office. Mr. Scheidel noted to the Board that the Department of Justice had drafted and submitted the agreement to the Board for reimbursement of approximately \$105,000 for FY07.

Mr. Holcomb made a motion to approve the reimbursement agreement with the Attorney General's Office, and Ms. Christiansen seconded the motion. The agreement was approved by a vote of 6-0.

C. Transfer of Funds from Revenue to Unassigned Revenue Fund

Mr. Scheidel presented a letter from the Treasurer's Office recommending the transfer of the remaining balance of \$908,550.62 in the Revenue Fund to the Unassigned Revenue Fund. On a motion from Mr. Beech, a second from Ms. Rottinghaus, and by a vote of 6-0, the transfer was approved.

D. 12-Month Board Meeting Schedule

Mr. Scheidel presented a memo to the Board listing the tentative dates of the next year's Board meetings. The memo contained an error for the date of the September Board meeting, which should have read "Thursday, September 28, 2006."

E. Aon Performance Review

Mr. Steward discussed Aon's self evaluation document of Aon's performance as program administrator for the Iowa UST Fund, as presented in the Board packet. The Board had reviewed the self evaluation document prior to the Board meeting, and Mr. Steward reported on the feedback he had received. He stated that Aon's contract period began January 1, 2004

and ended on December 31, 2006. He explained that the Board could renew Aon's contract in a one-year extension agreement effective January 1, 2007. He also stated the original contract agreement had provided for a 5% increase to Aon's flat fee upon renewal.

Mr. Holcomb moved for approval of the extension to the contract agreement with Aon, and Mr. Larson seconded the motion. Approved 6-0. Mr. Holcomb stated he felt Aon did an excellent job, and he hoped that the Board and Aon could do more to close claims more quickly.

Mr. Scheidel interjected that he had forgotten that he wanted to discuss Mr. Larson's earlier comment regarding rule review, and he asked the Board if they would like to add rule review to the list of goals for 2007. He explained that any legislative changes will prompt a review of rules as a matter of course. Mr. Steward explained that the rules were reviewed within the past few years in reaction to legislation affecting the Board. Mr. Larson stated that rules may get outdated without some regulatory review. Therefore he proposed that every year or two years, the Board should discuss a review of administrative rules. Mr. Scheidel stated he would add that to the goals for 2007.

F. LPT Proposal

Mr. Scheidel presented the Board with a memo regarding a Loss Portfolio Transfer (LPT) proposal from Petroleum Marketers Management Insurance Company (PMMIC) for a limited number of Fund-eligible sites that had agreed upon split costs between the Fund and PMMIC, resulting from multiple releases being addressed at the sites. The Board and PMMIC had funded an effort for a third-party to review each of the claims to establish a percentage of liability to the Fund and to PMMIC. Based on those percentages, as well as, the reserves set for the claims and other factors, the Administrator's Office and PMMIC had negotiated terms for such a transfer of the Board's liability. The proposed cost was \$670,245.49 to the Board at point in time after the negotiations was reached. More negotiations would be required to reach a final cost estimate including inflation, tax implications to PMMIC, and net present value.

Also included in the Board packet was a memo from Tom Norris of PMMIC outlining the proposed terms of a potential transfer agreement. Following his memo was a spreadsheet showing values assigned to several variables to outline the negotiations to date.

Mr. Scheidel addressed the administrative rules regarding the Board's loss portfolio transfer authority stating that the rules stated that where practicable the Board should seek bids for such a transfer. Mr. Scheidel opined that due to the shared liability between the Board and PMMIC on the sites involved, it would make sense to negotiate directly with PMMIC rather than seeking additional bids. Although, he stated, the Board had the authority to seek bids if they believed it was practicable to do so.

Ms. Voss stated that the Insurance Division had not completed their review of the document submitted by PMMIC, and she wanted to reserve her discussion regarding the transfer until that review was completed. Mr. Beech inquired about the risk premium of 6%. Mr. Scheidel explained that the risk premium was one of the items that required further negotiation. Mr. Beech stated that a risk premium was like paying third party liability, which the Board currently does not pay. Mr. Holcomb inquired if the spreadsheet represented a generally accepted formula used to analyze the risk to be transferred. Mr. Scheidel explained that it was

not a formula per se, as much as it included all of the relevant variables that should be included to analyze risk and the values to each variable were to be negotiated between the two parties. He stated that this was their first attempt regarding such an analysis for this type of risk.

Mr. Scheidel discussed the two advantages for the Board to enter into the LPT. It would definitively close claims for the Board, and it would allow the Board to gain experience with such a transfer if or when they approach a much larger scale transfer proposal in the future. Mr. Steward explained that he had drafted the agreement included in the Board packet for the proposed transfer, and the agreement stated specifically that the practicability of requesting additional bids for the transfer had been considered and reasoned unnecessary. After significant discussion among Board members, Mr. Steward and Tom Norris from PMMIC, the Board requested that Mr. Scheidel present them with a document discussing pros and cons of such an agreement for each of the interested parties (i.e. Board, PMMIC and claimants), and they would continue discussion at future meetings.

PROGRAM BILLINGS

Mr. Scheidel presented the monthly billings to the Board for approval.

1. Aon Risk Services\$ 112,830.33
Consulting Services August 2006 -- \$62,750.00
Claims Processing Services August 2006 -- \$50,080.33
2. Aon Risk Services.....\$112,830.33
Consulting Services September 2006 -- \$62,750.00
Claims Processing Services September 2006 -- \$50,080.33
3. Attorney General's Office\$ 8,557.23
Services provided for Underground Storage Tank Program
Partial Billing for June 2006
4. Attorney General's Office.....\$2,708.67
Services provided for Underground Storage Tank Program
Partial billing for June 2006 (Orig billing for \$6,047.31 w/\$3,338.64 disallowed)
5. Iowa Department of Inspections and Appeals\$656.00
Administrative Hearings on behalf of the Iowa UST Program
April – June 2006
6. Iowa Department of Revenue\$1,266.26
4th Q Environmental Protection Charge collections
April – June 2006

There were no billings for outside cost recovery and litigation counsel presented for this month's meeting. On a motion by Mr. Holcomb and a second by Ms. Christiansen, the billings were approved by a vote of 6-0.

Mr. Larson exited the meeting at 2:14 P.M.

MONTHLY ACTIVITY REPORT

Mr. Scheidel noted that the June and July monthly activity reports, financials and opt-in reports were included in the packet for the Board to review.

ATTORNEY GENERAL'S REPORT

Mr. Steward stated that there was nothing additional to report from the Attorney General's Office.

CLAIM PAYMENTS

Mr. Gastineau summarized the 12 claim payment reports and 3 project change orders in the Board packets. In addition, there was one more claim payment report carried-in and handed to the Board. Mr. Gastineau presented the reports as follows:

1. Site Registration 8608614 – Iowa Coaches, Inc., Dubuque

This site was classified high risk. The Administrator, the DNR and the responsible party had been in negotiations and an agreement was reached to fund a Tier III, closure of drinking water wells, and installation of a deep well to replace those closed. The site was to remain high risk for an adjacent well owner who had refused to abandon his well. The DNR had agreed to allow monitoring for that high risk well receptor. Previous approval to \$75,000 granted, of which \$85,919.91 had been spent to date. Additional authority to \$160,000 was requested for a site monitoring report (SMR) and implementation of the corrective action design report (CADR).

Ms. Voss voiced a recurring question of how much money would the Board save if they could effectively address the closure of drinking water wells on private and public property. Mr. Scheidel explained that the DNR was preparing a discussion for the September meeting to discuss their authority to require the closure of water wells.

Motion to approve claim authority was submitted by Mr. Holcomb and seconded by Ms. Christiansen. Approved 5-0.

2. Site Registration 8601196 – Dudley's Corner, Inc., Latimer

The site was high risk for groundwater ingestion and soil leaching to groundwater for two drinking water wells. The chosen corrective action was the installation of a new water well outside the actual and modeled plume followed by the plugging of the existing drinking water wells. Plastic water lines associated with the existing water wells would be abandoned. The water line for the new well would be copper within the actual and modeled plumes. The site was also low risk for the groundwater to protected groundwater source pathway and potential enclosed space pathways. A restrictive covenant would be established for the property to sever these pathways and reclassify the site to no action required. Previous approval to \$75,000 granted, of which \$46,454.69 had been spent to date. Additional authority to \$175,000 was requested for a site monitoring report (SMR) and implementation of well relocation.

Motion to approve claim authority was submitted by Mr. Holcomb and seconded by Ms. Christiansen. Approved 5-0.

3. Site Registration 8601473 – Voss Petroleum, Muscatine

The site was high risk for the soil leaching to protected groundwater source pathway and low risk for the groundwater to protected groundwater source pathway. The site was also low risk for soil vapor to potential confined space. An excavation had been completed here. A restrictive covenant prohibiting the installation of drinking and non-drinking water wells on-site was to be established to sever the high risk pathway. Groundwater and vapor monitoring would be completed until the target levels were reached and steady and declining criteria was met. Previous approval to \$75,000 was granted, of which \$93,365.14 had been spent to date. Additional authority to \$120,000 was requested for a site monitoring report (SMR) and implementation of the restrictive covenant.

Motion to approve claim authority was submitted by Ms. Rottinghaus and seconded by Ms. Christiansen. Approved 5-0.

4. Site Registration 8603843 – John D. Malone, Morning Sun

This site was high risk for groundwater ingestion to one drinking water well, groundwater to plastic water line and groundwater vapor. Soil leaching pathways for the same were also high risk. It was hoped that an excavation and plastic water line replacement would reclassify all high risk pathways. Previous approval to \$75,000 was granted, of which \$28,206.81 had been spent to date. Additional authority to \$175,000 was requested for a SMR, implementation of the excavation, and a possible corrective action design report (CADR).

Motion to approve claim authority was submitted by Mr. Holcomb and seconded by Ms. Christiansen. Approved 5-0.

5. Site Registration 8604319 – Miller Bros. Furniture Co., Sioux City

This was a second Board report for this site, which was classified high risk for soil and groundwater vapor to on-site sewer only. Site had been sold, closed and leveled with a plan for a new furniture store addition. Site specific target levels (SSTL's) had been met and the system was to be shut down after removal of the remaining free product left in one of ten former free product wells. Previous approval to \$400,000 granted, of which \$411,962.94 had been spent to date. Additional authority to \$550,000 was requested for a SMR, free product recovery (FPR) and implementation of the dual phase system.

Motion to approve claim authority was submitted by Mr. Holcomb and seconded by Ms. Rottinghaus. Approved 5-0.

6. Site Registration 8605967 – Holiday Oil Dist., Inc., Dubuque

The site was high risk for the soil leaching to protected groundwater source pathway and for the groundwater and soil vapor pathways for several residential sewers. Vapor sampling had failed. The corrective action options were limited based upon a recent pilot study. Biox was the preferred technology by the groundwater professional. Previous approval to \$75,000

granted, of which \$57,502.88 had been spent to date. Additional authority to \$310,000 was requested for a SMR, a CADR, and implementation of the CADR (Biox).

Motion to approve claim payment was submitted by Ms. Christiansen and seconded by Mr. Holcomb. Approved 5-0.

7. Site Registration 8606089 – New Horizon FS Inc., La Motte

This was the second Board report for this site, which was classified high risk. The excavation approved in the first Board report had been completed and was larger than anticipated. Not all soil was removed due to limited access near buildings. Another corrective action conference would be scheduled to address the remaining contamination. The best option appeared to be relocating a well on-site, if possible. Clean up to SSTL's would be difficult. Previous approval to \$250,000 granted, of which \$235,872.79 had been spent to date. Additional authority to \$350,000 was requested for a SMR, a possible CADR, and implementation of the CADR or Tier III with well relocation.

Motion to approve claim authority was submitted by Mr. Holcomb and seconded by Ms. Christiansen. Approved 5-0.

8. Site Registration 8606320 – J.D. Carpenter Co., Agency

This was a second Board report for this site, which was classified high risk for groundwater to plastic water lines, soil leaching to protected groundwater source, and soil vapor for the site's septic system. The last Board report for this site had reasoned that a County well ordinance would be obtained to reclassify this site to low risk after plastic water line replacement. The County was not willing to adopt an ordinance, nor were the adjoining property owners willing to restrict the use of their land through an environmental covenant. Once these options failed, the soil plumes were further delineated. New data indicated contamination to be widespread over a large portion of the site and also resulted in the high risk classification for the on-site sewer/ septic system.

At a recent corrective action conference, it was agreed that source remediation would reduce the amount of plastic water line to be replaced. The groundwater professional had proposed chemical oxidation with an on-site institutional control. The budget submitted of \$153,000 appeared to be far too optimistic for the extent of contamination and the fine-grained soils involved. The Administrator requested another firm evaluate the site, and their technology choice was excavation with sparge/VAC at a cost more than twice that of the owner's groundwater professional. DNR indicated that if free product were recovered and source soil levels were significantly reduced, they might consider Tier III even if SSTL's are not met. Previous approval to \$225,000 granted, of which \$112,380.97 had been spent to date. Additional authority to \$350,000 was requested for a CADR, and implementation of the CADR/ plastic water line replacement.

The Board requested the Administrator defer this report until the October meeting, to allow the owner and/or his groundwater professional firm to revisit the County with a written request for an ordinance.

9. Site Registration 8607099 – Fauser Oil Co., Winthrop

This was a second Board report for this site, which was classified high risk for the groundwater vapor to enclosed space pathway for two residential sewers. Vapor sampling had failed and free product was present near the receptors. Soil plume definition in preparation of an excavation had resulted in soil contamination exceeding the values used in earlier evaluation. The soil pathways may now be high risk. The tanks had been gone since August 29, 1990. An excavation was recommended for the site. Previous approval to \$140,000 granted, of which \$110,170.97 had been spent to date. Additional authority to \$310,000 was requested for a SMR, FPR, and implementation of an excavation.

Ms. Christiansen moved to approve the claim authority for this site, and Ms. Rottinghaus seconded the motion. Approved 5-0.

10. Site Registration 8607360 – Diamond Oil Co., Des Moines

The site was high risk for soil vapor and soil leaching to groundwater vapor for on-site septic systems. At the corrective action conference, the agreed upon technology was chemical oxidation for an approximate cost of \$50,000.00. Previous approval to \$75,000 granted, of which \$65,759.30 had been spent to date. Additional approval to \$150,000 was requested for a SMR, CADR and implementation of the CADR.

A motion for approval of the claim authority was submitted by Ms. Rottinghaus and seconded by Mr. Beech. Approved 5-0.

11. Site Registration 8608015 – Madison County, Winterset

The site was high risk for both soil and groundwater vapor pathways. Very high soil concentrations were present beneath the site structure and most likely beneath the basement of a commercial building twenty feet west of the County property. At the corrective action meeting, it was agreed to excavate as much as possible on both sides of the site building. Some follow up technology would likely be needed for soils beneath the two structures. Previous approval to \$75,000 granted, of which \$35,113.16 had been spent to date. Additional authority to \$250,000 was requested for SMR, CADR, and implementation of the CADR.

A motion for approval of the claim authority was submitted by Ms. Christiansen and seconded by Mr. Beech. Approved 5-0.

12. Site Registration 8600637 – Weldon Oil Co., Parnell

The site was high risk for groundwater ingestion to one non-drinking water well and for groundwater to plastic water line for 16 plastic water line (PWL) receptors. The site was also low risk for the groundwater and soil vapor to potential enclosed space pathways. The SSTL's had been met for the non-drinking water well. Monitoring for this pathway would continue until exit criteria were met. A PWL replacement project was being planned to replace those portions of the plastic water lines which were within the contaminant plume. Monitoring would continue for the remaining PWL receptors and low risk potential pathways. Previous approval to \$75,000 granted, of which \$81,712.15 had been spent to date. Additional authority

to \$200,000 was requested for a SMR, FPR, and implementation of the replacement of plastic water lines.

A motion to approve the claim authority was submitted by Ms. Rottinghaus and seconded by Ms. Christiansen. Approved 5-0.

13. CRPCA 0406-38 – Rose Hill

This community remediation project was contracted in 2004 to address a site in Rose Hill, Iowa, that was previously assessed under the Board authorized State Lead Closure Contract project. The high risk concerns associated with the site included plastic water lines, a sanitary sewer, and two private water wells. Since the inception of the project, minimal work had been completed due to access issues. Additionally, the water wells had recently changed status from non-drinking to drinking water wells. Future work may include additional sampling to verify stability of contaminant plumes and further evaluation of the risk to plastic water lines, sewer, and private wells. The site was not a Fund-eligible site, and a lien had been filed by the Fund for cost recovery of monies expended through the UST closure claim. The original agreement for the remediation project was written as a two-year project with the option of four one-year extensions. The current agreement term will expire August 30, 2006, and the Administrator recommended a one-year extension for this project. Current contract authority for this project was \$23,108.42, and no change to the Board's funding authority limit was requested.

Mr. Beech submitted a motion to extend the contract for the Rose Hill project for one year. Ms. Rottinghaus seconded the motion, which was approved 5-0.

14. CRPCA 9805-17 – Casey's Store, Alice's Antiques, Rupp Tire; Ida Grove

This community remediation project was contracted in 1998 to identify corrective action options for the three facilities identified as the sources of the petroleum contamination which had impacted a water supply well in Ida Grove, Iowa. In 2000, the Board approved funding for the installation of four vapor extraction/ air sparge system to reduce contaminant levels. Operation of the systems continued through 2004. A separate agreement was entered into with the City of Ida Grove to provide funding for their efforts to replace their impacted well. The agreement provided funding to install a replacement well and a new raw water transmission line, as well as, to complete non-specified tasks that would further reduce the need for corrective actions. The City closed the impacted well, and then closed two additional wells resulting in a reduction of necessary corrective actions. The CRP sites were granted no action required classifications by DNR in the summer of 2006. The groundwater professional had submitted a budget for system abandonment, closure of treatment wells, and monitoring well abandonment totaling \$42,500. Additional Board authority was requested to \$768,226, which represented a 5.8% increase to the existing contract.

Motion to approve the increase in Board authority for this project was submitted by Ms. Rottinghaus and seconded by Mr. Holcomb. Approved 4-0. Mr. Beech abstained from the discussion and the vote.

15. CRPCA 0309-33 - Bentley

This community remediation project was contracted in 2003 to address a site in an unincorporated community with no public water system. The site was high risk due to the presence of contamination in proximity to multiple drinking water wells. The option to bring water to the area was dismissed as neither feasible nor cost-effective. Due to site conditions including depth to water and low permeability soils, few alternatives existed to remediate. A pilot test for an innovative technology was completed to evaluate a patented in-well air stripping process; the test results indicated the process would not work. A second pilot test was initiated to evaluate a similar technology designed for low permeability soils. The results were better and full implementation of this technology was recommended. Although, the technology was experimental in nature and may be subject to modification during the implementation phase, remedial goals were expected to be met within 2-4 years. An increase in Board authority to \$400,000 for this project was requested for installation, operation and maintenance, and monitoring for approximately three years.

Motion to approve the increase in Board authority for this project was submitted by Mr. Holcomb and seconded by Ms. Christiansen. Approved 5-0.

16. Site Registration 8607678 – Humboldt County, LuVerne

The site was high risk for a nearby municipal well. Only one monitoring well was above SSTL's, however it was at 8,000 ppb Benzene and SSTL is 35. A small excavation followed by air sparge/soil vapor extraction system was proposed. Previous approval to \$75,000 granted, of which \$22,895 had been spent to date. Additional authority to \$200,000 was requested for a SMR, CADR, implementation of CADR and FPR.

A motion to approve the claim authority was submitted by Ms. Christiansen and seconded by Ms. Rottinghaus. Approved 5-0.

CONTRACTS ENTERED INTO SINCE JUNE 22, 2006 BOARD MEETING

The Board had entered into four new agreements/contracts since the June Board meeting.

- 1) The Board extended its contract with Barker Lemar Engineering Consultants for one year to continue the UST closure project in the east region of the state.
- 2) The Board extended its contract with GeoTek Engineering and Testing for one year to continue the UST closure project in the west region of the state.
- 3) The Board entered into a "connection agreement" with Regional Water of Avoca to extend a water line from their existing system to a point south of I-80 at the Minden exit, supplying a new water source to one LUST site and neighboring properties.
- 4) The Board entered into a "connection agreement" with Regional Water of Avoca to extend a water line from the aforementioned point south of I-80 at the Minden exit to the City of Minden corporate limit, supplying a new water source to the City of Minden.

OTHER ISSUES

The next meeting of the Board was scheduled for Thursday, September 28, 2006 at 10 A.M.

CORRESPONDENCE AND ATTACHMENTS

Ms. Voss noted that there was no further business, and there being none, Ms. Rottinghaus moved for adjournment. Mr. Holcomb seconded the motion, and on a 5-0 vote, the Board adjourned at 3:03 P.M.

Respectfully Submitted,

A handwritten signature in black ink, reading "Scott M. Scheidel". The signature is written in a cursive, flowing style with a large initial 'S'.

Scott M. Scheidel
Administrator